

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 4:15-CR-545 CEJ
)
KENYOTA DOKES,)
)
Defendant.)

ORDER

Pursuant to 28 U.S.C. § 636(b), the Court referred all pretrial matters in this case to United States Magistrate Judge Nannette A. Baker for determination and recommended disposition, where appropriate. On March 30, 2016, Judge Baker issued a Report and Recommendation, recommending that the motions filed by defendant Kenyota Dokes to dismiss the indictment and for severance be denied. The defendant has filed timely objections to the magistrate judge's recommendations, and the government has filed a response.

I. Motion to Dismiss Indictment

The four-count indictment, filed on December 10, 2015, charges defendant Dokes and her husband with aiding and abetting each other in the theft of government funds, in violation of 18 U.S.C. sections 641 and 2. The indictment sets forth the specific dates in 2012 and 2013 on which each offense occurred. Thus, the crimes charged in the indictment fall within the five-year statute of limitations. The motion to dismiss will be denied.

II. Motion to Sever

In her motion to sever, defendant Dokes seeks a separate trial. The court finds that defendant has not supported her claim that she would be prejudiced by a joint trial. The defendant's contention that a joint trial would require a violation of the marital privilege is unavailing. The government's evidence of statements defendant made to third parties does not implicate the privilege. Further, even if the privilege were applicable it would be an issue in a separate trial as well.

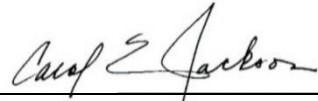
Likewise, because criminal charges have been brought against defendant's husband, he could invoke his right against self-incrimination in a joint or separate trial. Because there is no concern that the government will present any statement by the co-defendant that implicates defendant Dokes, her reliance on *Bruton v. United States*, 391 U.S. 123 (1968), is misplaced.

The defendants have been charged with aiding and abetting each other in the commission of the same offenses. The defendant has not presented sufficient reasons for deviating from the long-standing general rule that "persons charged in a conspiracy should be tried together, particularly where proof of the charges against the defendants is based upon the same evidence and acts." *United Sates v. Boyd*, 610 F.2d 521, 525 (8th Cir. 1979). See also, *United States v. Frank*, 354 F.3d 910, 920 (8th Cir. 2004).

For the above reasons, the motion to sever will be denied.

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge Nannette A. Baker [Doc. # 30] is sustained, adopted, and incorporated herein.

IT IS FURTHER ORDERED that the motions of defendant Kenyota Dokes to sever [Doc. # 24] and to dismiss the indictment [Doc. # 25] are **denied**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 20th day of May, 2016.